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TAGS: [PREL](#) [PHUM](#) [KWBG](#) [IS](#)
SUBJECT: THE GOLDSTONE REPORT AND THE HUMAN RIGHTS COUNCIL

REF: A. TEL AVIV 2099
[1](#)B. TEL AVIV 2028

Classified By: LUIS G. MORENO, CDA. REASONS 1.4 (b), (d)

[1](#)1. (C) Summary: PolCouns and Deputy PolCouns met September 22 with MFA Legal Advisor Ehud Keinan and Principal Deputy Legal Advisor Daniel Taub to follow up on Israel's reactions to the Goldstone Report and seek more specificity concerning the IDF investigatory process. Keinan and Taub stressed that Israel had not yet decided whether it would engage on resolution negotiations in Geneva. They emphasized, however, the "rage" at all levels of Israeli society over the Goldstone report, and stressed that the report was perceived in Israel as an attack on the basis of the state's legitimacy. In their view, this report presented a more hostile description of Israel than found in any other of the dozen or so reports on Operation Cast Lead (including the Arab League report), was profoundly anti-democratic, and represented an attack on the credibility of the entire Israeli judicial system. In the Israeli view, it was critical not only to try to bottle up the report in Geneva, or, failing that, in New York, but to prevent at all costs any language on either the ICC or to universal jurisdiction in the eventual Human Rights Council resolution. End Summary.

[1](#)2. (C) MFA participants in the meeting also included Evi Manor, Deputy Director General for UN and International Organization affairs, Meirav Eilon Shahr, Director of UN Political Affairs, and Arthur Lake of the Legal Advisor's office. Keinan began by highlighting the profound anger in Israel at the report and the threat it represented to democratic countries' ability to fight terror. He noted that he and MFA Director General Yossi Gal were called to the Prime Minister's residence at 11 p.m. on September 15 for an emergency meeting of the inner cabinet to discuss the Goldstone report. At that meeting, Keinan was asked to present his views on the report. Keinan told us that all the ministers, including moderates Ehud Barak and Dan Meridor, expressed "shock and dismay" at the report. Keinan also pointed out that President Peres had gone out of his way to get involved in this particular political battle, highly unusual behavior for an Israeli president. In short, in the MFA's view, the report represented an "exceptional delegitimization" of Israel.

[1](#)3. (C) Daniel Taub enumerated the reasons why the report had struck a raw nerve. First, more than any of the dozen or so other reports on Cast Lead, including the Arab League report, the hostility in Goldstone's report was exceptional. In addition, the report was "profoundly anti-democratic" due to its claim that Israel had repressed internal dissent even while the report relied in large part on Israeli NGO information. Finally, the report was a strong attack on the credibility of the entire Israeli judicial system, casting doubt even on the ability of the Supreme Court to perform in

a credible manner.

Next Steps in Geneva

14. (C) Keinan and Taub expressed their regret that U.S. statements on the report thus far "haven't been as clear or focused as Israel had hoped." They also commented that the USG statements to date have dealt with the recommendations, not the substance of the report itself. Israel was "making its best guess" as to what the GOI role in the resolution negotiations should be. Israel's primary concern was about a resolution that would undermine the integrity of the Israeli investigatory system and expose senior Israeli officials such as former PM Olmert, former Foreign Minister Livni and Defense Minister Barak to potential criminal prosecution. Suggesting symmetry between Israel and the IDF on one hand, and non-state actors like Hamas, on the other, was absurd, as were the report's recommendations that both sides investigate their activities during Cast Lead.

15. (C) Israeli red lines for the resolution included not only no reference to referral either to the ICC or to universal jurisdiction, but also to the UNGA or the UN Security Council. Keinan and Taub also said that Israel had heard in Washington that USG red line issues for the resolution included any reference to Gaza as occupied territory, any applicability of the Geneva Conventions to Gaza, and any reference to specific Cast Lead incidents detailed in the report. Meirav Eilon Shahar, who previously served at Israel's UN Mission in New York, added pointedly that it would be important for the USG to adhere to its own red lines. Keinan concluded the discussion on the HRC resolution by noting that he would discuss the matter with MFA Director General Gal and FM Lieberman, and possibly even the Prime Minister, for a decision on whether or not to engage in Geneva.

More on Israel's Investigation Process

16. (C) In response to a question from PolCouns on the IDF investigative process, Taub confirmed that after Cast Lead, the IDF Chief of General Staff, Lt. General Ashkenazi, brought in panels of officers outside the chain of command to review the most serious allegations. (NOTE: The use of outside investigators is a change from IDF standard procedure.) Field investigations are designed to get the maximum information from soldiers who may have witnessed a particular incident. For this reason, anything a soldier says in a field investigation cannot be used against him. Once the field investigation is finished, the case is referred to the Military Advocate General for criminal investigation. The criminal investigation is conducted independently, and anyone (including Palestinians) may present testimony.

17. (C) In view of the severity of concerns arising from the Gaza operation, five field investigations covering some 20 incidents, each conducted by a colonel-rank officer, were launched. The Attorney General committed to reviewing all MAG decisions emanating from those five investigations. NGOs have the right to petition the Supreme Court in any of these cases. In addition, any victim can address the MAG directly, and each allegation will be reviewed by a court and answered. Taub confirmed that an interagency group is reviewing all the incidents mentioned in Goldstone's report, at least ten of which he said were new to the Israelis.

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